IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:94-CR-068
)	
HINTON M. WATERS)	

ORDER

Pro se, the defendant has filed a "Motion for a Bill of Review of 28 U.S.C. § 2255" [doc. 268] which the court construes as an attempt to file a second or successive motion under 28 U.S.C. § 2255. "[S]ubstance, rather than labels, should control in legal proceedings[.]" *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004).

In accordance with the Antiterrorism and Effective Death Penalty Act of 1996, the defendant cannot file a second or successive § 2255 motion in the district court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the petition. *See* 28 U.S.C. § 2255(h) (referencing 28 U.S.C. § 2244). This court has not received an order from the Sixth Circuit authorizing consideration of the pending motion.

Accordingly, the Clerk of Court is **DIRECTED** to transfer this action [doc. 268] to the Sixth Circuit, pursuant to 28 U.S.C. § 1631. *See In re Sims*, 111 F.3d 45 (6th Cir. 1997).

IT IS SO ORDERED.

ENTER:
s/ Leon Jordan
United States District Judge